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Charles Eldering

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EXAMINER

NGUYEN, TRI V

ART UNIT

PAPER NUMBER

1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/857,257

Applicant(s)

ELDERING, CHARLES

Examiner

Tri V. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9,47-76 and 78-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9,47-76,78-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. In the amendment file on January 8 2007, claims 1, 5, 52, 59, 63 and 71 were amended and claim 77 was cancelled. The currently pending claims considered below are claims 1-9 and 47-76 and 78-80.
2. Upon consideration of the amendments to the claims and the clarification remarks by the applicants, the examiner withdraws the rejection under 112(2).

### ***Information Disclosure Statement***

3. The information disclosure statement filed June 21, 2006 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the disclosed non-patent documents were not provided. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8, 47-76 and 78-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feezell et al. (US 6,253,189) in view of Kramer et al. (US 6,327,574).

Claim 1. Feezell et al. discloses in a networked environment having a plurality of computer systems interconnected for the purpose of instantaneously transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

- (a) providing notification of an advertisement opportunity from a content opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (c) calculating a correlation factor between said advertisement characterization and said consumer in a profiler computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (d) transmitting said correlation factor to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4); and
- (e) receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

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Feezell et al. does not explicitly disclose the use of a correlation factor. However, Feezell et al. recites the use of valuation data, weight factor and correlations (col 5, lines 31-47; col 7, lines 34-45 and col 11, lines 48-50). In an analogous art, Kramer et al. discloses a method for correlating an ad characterization vector and a consumer characterization vector in the evaluation of the advertisement opportunity (col 10, lines 47-67 and col 11, lines 1-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method in Feezell et al. One would have been motivated to use a correlation factor in Feezell et al.; thus, allowing a more efficient matching of the advertisement and the consumer in the bidding process.

Claim 2. Feezell et al. and Kramer et al. disclose the method described in claim 1 but do not explicitly disclose wherein said advertisement characterization is in the form of an ad characterization vector, said consumer is represented by a consumer characterization vector, and said correlation factor in step (c) is calculated as the scalar product between said ad characterization vector and said consumer characterization vector. Kramer discloses the feature of an ad characterization vector and a consumer characterization vector (col 10, lines 47-67 and col 11, lines 1-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the correlation method in Feezell et al. One would have been motivated to use the scalar product of the advertisement and consumer vectors to provide a more rigorous mathematical foundation to the correlation factor used in Feezell et al.; thus, allowing a more efficient matching of the advertisement and the consumer in the bidding process.

Claim 3. Feezell et al. and Kramer et al. disclose the method described in claim 2 but do not explicitly disclose wherein said consumer characterization vector contains a demographic characterization of said consumer and wherein' said ad characterization vector contains a demographic characterization of the target market for said advertisement. Kramer et al. teaches the use of vectors to characterize ads and consumers (col 10, lines 47-67 and col 11, lines 1-10). Furthermore, Kramer et al. also teaches the use of demographics information in characterizing the vectors (col 11, lines 38-53; col 21, lines 7-19 and Figs 10, 11A and 11B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the characterization of the advertisement and the consumer by using vectors and demographic information. One would have been motivated to enhance the relevancy of the correlation by providing additional practical information.

Claim 4. Feezell et al. and Kramer et al. disclose the method described in claim 2 but do not explicitly disclose wherein said consumer characterization vector contains a product preference characterization of said consumer and wherein said ad characterization vector contains a product preference target market for said advertisement. Kramer et al. teaches the use of vectors to characterize consumers and advertisements wherein said consumer characterization vector contains a product preference characterization of said consumer and wherein said ad characterization vector contains a product preference target market for said advertisement (col 10, lines 34-38; col 11, lines 22-36; col 28, lines 45-55 and Fig 10, element 1036). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the characterization

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of the advertisement and the consumer by using vectors and product preference information. One would have been motivated to enhance the relevancy of the correlation by providing additional practical information for the consumer and advertisement vectors.

Claim 5. Feezell et al. discloses in a networked environment having a plurality of computer systems interconnected for the purpose of instantaneously transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

- (a) providing notification of an advertisement opportunity from a content opportunity provider computer system to a plurality of computer systems representing advertisers, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (b) receiving a plurality of advertisement characterizations from said plurality of computer systems representing advertisers, wherein each of said advertisement characterization corresponds to advertisement (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (c) calculating a plurality of correlation factors between said advertisement characterizations and said consumer in a profiler computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (d) transmitting said correlation factors to said plurality of computer systems representing advertisers prior to receiving a bid for said advertisement opportunity from said plurality of computer systems representing advertisers (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);

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(e) receiving a plurality of bids for said advertisement opportunity at said content/opportunity provider computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4); and

(f) selecting a successful bid from said plurality of bids for said advertisement opportunity wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Feezell et al. does not explicitly disclose the use of a correlation factor. However, Feezell et al. recites the use of valuation data, weight factor and correlations (col 5, lines 31-47; col 7, lines 34-45 and col 11, lines 48-50). In an analogous art, Kramer et al. discloses a method for correlating an ad characterization vector and a consumer characterization vector in the evaluation of the advertisement opportunity (col 10, lines 47-67 and col 11, lines 1-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method in Feezell et al. One would have been motivated to use a correlation factor in Feezell et al.; thus, allowing a more efficient matching of the advertisement and the consumer in the bidding process.

Claim 6. Feezell et al. and Kramer et al. disclose the method described in claim 5 but do not explicitly disclose wherein said advertisement characterization is in the form of an ad characterization vector, said consumer is represented by a consumer characterization vector, and said correlation factor in step (c) is calculated as the scalar product between said ad characterization vector and said consumer characterization vector. Kramer discloses the feature of an ad characterization vector and a consumer characterization



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vector (col 10, lines 47-67 and col 11, lines 1-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the correlation method in Feezell et al. One would have been motivated to use the scalar product of the advertisement and consumer vectors to provide a more rigorous mathematical foundation to the correlation factor used in Feezell et al.; thus, allowing a more efficient matching of the advertisement and the consumer in the bidding process.

Claim 7. Feezell et al. and Kramer et al. disclose the method described in claim 6 but do not explicitly disclose wherein said consumer characterization vector contains a demographic characterization of said consumer and wherein said computer readable ad characterization vector contains a demographic characterization of the target market for said advertisement. Kramer et al. teaches the use of vectors to characterize ads and consumers (col 10, lines 47-67 and col 11, lines 1-10). Furthermore, Kramer et al. also teaches the use of demographics information in characterizing the vectors (col 11, lines 38-53; col 21, lines 7-19 and Figs 10, 11A and 11B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the characterization of the advertisement and the consumer by using vectors and demographic information. One would have been motivated to enhance the relevancy of the correlation by providing additional practical information.

Claim 8. Feezell et al. and Kramer et al. disclose the method described in claim 6 but do not explicitly disclose wherein said consumer characterization vector contains a product preference characterization of said consumer and wherein said computer-readable ad

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characterization vector contains a product preference target market for said advertisement. Kramer et al. teaches the use of vectors to characterize consumers and advertisements wherein said consumer characterization vector contains a product preference characterization of said consumer and wherein said ad characterization vector contains a product preference target market for said advertisement (col 10, lines 34-38; col 11, lines 22-36; col 28, lines 45-55 and Fig 10, element 1036). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the characterization of the advertisement and the consumer by using vectors and product preference information. One would have been motivated to enhance the relevancy of the correlation by providing additional practical information for the consumer and advertisement vectors.

Claim 47. Feezell et al. and Kramer et al. disclose the method of claim 1, but do not explicitly disclose wherein said correlation factor represents the degree of similarity between said advertisement and said consumer. Kramer et al. teaches the use of a degree of similarity (col 10, line 50 to col 11, line 36; col 28, lines 45-55 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a similarity degree. One would have been motivated to add the similarity feature to improve the efficiency of finding the appropriate targeted audience.

Claim 48. Feezell et al. and Kramer et al. disclose the method of claim 1, but do not explicitly disclose wherein said correlation factor is non-Boolean. Kramer et al. teaches the use of non-Boolean terms (col 21, lines 7-31 and Figs. 1A-13B). Therefore, it would

have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor being non-Boolean. One would have been motivated to non-Boolean terms to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 49. Feezell et al. and Kramer et al. disclose the method of claim 1, but do not explicitly disclose wherein said correlation factor is a gradation of the correlation between said advertisement characterization and said consumer. Kramer et al. teaches the use of a gradation factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a gradation. One would have been motivated to add the gradation feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 50. Feezell et al. and Kramer et al. disclose the method of claim 1, but do not explicitly disclose wherein the value of said successful bid is based on the correlation factor transmitted in step (d). Feezell et al. discloses the successful bid is based on the valuation data (Feezell et al.: col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Claim 51. Feezell et al. and Kramer et al. disclose the method of claim 1, but do not explicitly disclose wherein said correlation factor is decimal. Kramer et al. teaches the use of a decimal factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary

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skill in the art at the time the invention was made to modify the method to include the correlation factor being decimal. One would have been motivated to add the decimal feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 52. Feezell et al. disclose in a networked environment having a plurality of computer systems interconnected for the purpose of instantaneously transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

- (a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4),
- (b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (c) calculating a correlation factor between said advertisement characterization and said consumer in a profiler computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (d) transmitting said correlation factor to said advertiser computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4); and
- (e) receiving a successful bid at said content/opportunity provider computer system, wherein said successful bid is received in response to said correlation factor being transmitted to said advertiser computer system for said advertisement opportunity and

results in the transmission of said advertisement to said consumer in said advertisement opportunity (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Feezell et al. does not explicitly disclose the use of a correlation factor. However, Feezell et al. recites the use of valuation data, weight factor and correlations (col 5, lines 31-47; col 7, lines 34-45 and col 11, lines 48-50). In an analogous art, Kramer et al. discloses a method for correlating an ad characterization vector and a consumer characterization vector in the evaluation of the advertisement opportunity (col 10, lines 47-67 and col 11, lines 1-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method in Feezell et al. One would have been motivated to use a correlation factor in Feezell et al.; thus, allowing a more efficient matching of the advertisement and the consumer in the bidding process.

Claim 53. Feezell et al. and Kramer et al. disclose the method of claim 52, wherein said correlation factor is transmitted to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system (Feezell et al.: col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Claim 54. Feezell et al. and Kramer et al. disclose the method of claim 52, but do not explicitly disclose wherein said correlation factor represents the degree of similarity between said advertisement and said consumer. Kramer et al. teaches the use of a degree of similarity (col 10, line 50 to col 11, line 36; col 28, lines 45-55 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor

representing a similarity degree. One would have been motivated to add the similarity feature to improve the efficiency of finding the appropriate targeted audience.

Claim 55. Feezell et al. and Kramer et al. disclose the method of claim 52, but do not explicitly disclose wherein said correlation factor is non-Boolean. Kramer et al. teaches the use of non-Boolean terms (col 21, lines 7-31 and Figs. 1A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor being non-Boolean. One would have been motivated to non-Boolean terms to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 56. Feezell et al. and Kramer et al. disclose the method of claim 52, but do not explicitly disclose wherein said correlation factor is a gradation of the correlation between said advertisement characterization and said consumer. Kramer et al. teaches the use of a gradation factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a gradation. One would have been motivated to add the gradation feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 57. Feezell et al. and Kramer et al. disclose the method of claim 52, but do not explicitly disclose wherein the value of said successful bid is dependent on the correlation factor transmitted in step (d). Feezell et al. discloses the successful bid is

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based on the valuation data (Feezell et al.: col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Claim 58. Feezell et al. and Kramer et al. disclose the method of claim 52, but do not explicitly disclose wherein said correlation factor is decimal. Kramer et al. teaches the use of a decimal factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor being decimal. One would have been motivated to add the decimal feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 59. Feezell et al. disclose in a networked environment having a plurality of computer systems interconnected for the purpose of instantaneously transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

- (a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);

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(c) calculating a correlation coefficient between said advertisement characterization and said consumer in a profiler computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);

(d) transmitting said correlation coefficient to said advertiser computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4); and

(e) receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Feezell et al. does not explicitly disclose the use of a correlation factor. However, Feezell et al. recites the use of valuation data, weight factor and correlations (col 5, lines 31-47; col 7, lines 34-45 and col 11, lines 48-50). In an analogous art, Kramer et al. discloses a method for correlating an ad characterization vector and a consumer characterization vector in the evaluation of the advertisement opportunity (col 10, lines 47-67 and col 11, lines 1-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method in Feezell et al. One would have been motivated to use a correlation factor in Feezell et al.; thus, allowing a more efficient matching of the advertisement and the consumer in the bidding process.

Claim 60. Feezell et al. and Kramer et al. disclose the method of claim 59, wherein said correlation coefficient represents the degree of similarity between said advertisement and said consumer. Kramer et al. teaches the use of a degree of similarity (col 10, line 50 to col 11, line 36; col 28, lines 45-55 and Figs 11A-13B). Therefore, it would have



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been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a similarity degree. One would have been motivated to add the similarity feature to improve the efficiency of finding the appropriate targeted audience.

Claim 61. Feezell et al. and Kramer et al. disclose the method of claim 59, wherein said correlation factor is transmitted to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system (Feezell et al.: col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Claim 62. Feezell et al. and Kramer et al. disclose the method of claim 59, but do not explicitly disclose wherein said correlation coefficient is decimal. Kramer et al. teaches the use of a decimal factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor being decimal. One would have been motivated to add the decimal feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 63. Feezell et al. disclose in a networked environment having a plurality of computer systems interconnected for the purpose of instantaneously transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

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- (a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (c) calculating a correlation factor between said advertisement characterization and said consumer in a profiler computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (d) transmitting said correlation factor to said advertiser computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4); and
- (e) receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity, and wherein said bid is based on said correlation factor (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Feezell et al. does not explicitly disclose the use of a correlation factor. However, Feezell et al. recites the use of valuation data, weight factor and correlations (col 5, lines 31-47; col 7, lines 34-45 and col 11, lines 48-50). In an analogous art, Kramer et al. discloses a method for correlating an ad characterization vector and a consumer characterization vector in the evaluation of the advertisement opportunity (col 10, lines 47-67 and col 11, lines 1-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method in

Feezell et al. One would have been motivated to use a correlation factor in Feezell et al.; thus, allowing a more efficient matching of the advertisement and the consumer in the bidding process.

Claim 64. Feezell et al. and Kramer et al. disclose the method of claim 63, wherein said bid is calculated by said advertiser computer system using said correlation factor (Feezell et al.: col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Claim 65. Feezell et al. and Kramer et al. disclose the method of claim 63, disclose wherein said correlation factor is transmitted to the advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system (Feezell et al.: col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Claim 66. Feezell et al. and Kramer et al. disclose the method of claim 64 but do not explicitly disclose wherein said correlation factor represents the degree of similarity between said advertisement and said consumer. Kramer et al. teaches the use of a degree of similarity (col 10, line 50 to col 11, line 36; col 28, lines 45-55 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a similarity degree. One would have been motivated to add the similarity feature to improve the efficiency of finding the appropriate targeted audience.

Claim 67. Feezell et al. and Kramer et al. disclose the method of claim 63, but do not explicitly disclose wherein said correlation factor is non-Boolean. Kramer et al. teaches

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the use of a non-Boolean terms (col 21, lines 7-31 and Figs. 1A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor being non-Boolean. One would have been motivated to non-Boolean terms to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 68. Feezell et al. and Kramer et al. disclose the method of claim 63, but do not explicitly disclose wherein said correlation factor is a gradation of the correlation between said advertisement characterization and said consumer. Kramer et al. teaches the use of a gradation factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a gradation. One would have been motivated to add the gradation feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 69. Feezell et al. and Kramer et al. disclose the method of claim 63, but do not explicitly disclose wherein said correlation factor may be described by more than two values. In an analogous art, Kramer et al. teaches the inclusion of many inputs such as a product preference characterization in a subscriber profile and a product preference of a target market in an advertisement (col 10, lines 34-38; col 11, lines 22-36; col 28, lines 45-55 and Fig 10, element 1036). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include more than one values in the correlation factor. One would have been motivated

to enhance the relevancy of the profile by providing additional practical information to generate a more accurate targeted audience.

Claim 70. Feezell et al. and Kramer et al. disclose the method of claim 63, but do not explicitly disclose wherein said correlation factor is a decimal. Kramer et al. teaches the use of a decimal factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor being decimal. One would have been motivated to add the decimal feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 71. Feezell et al. disclose in a networked environment having a plurality of computer systems interconnected for the purpose of instantaneously transmitting and receiving data, a method for buying an advertisement opportunity, said method comprising:

- (a) receiving at an advertiser computer system notification of an advertisement opportunity, from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (b) providing an advertisement characterization corresponding to an advertisement from said advertiser computer system to a profiler computer system (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);

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- (c) receiving, at said advertiser computer system, from the profiler computer system, a correlation factor representing the correlation between said advertisement characterization and said consumer (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4);
- (d) determining a bid for said advertisement opportunity (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4); and
- (e) transmitting said bid to said content/opportunity provider (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4).

Feezell et al. does not explicitly disclose the use of a correlation factor. However, Feezell et al. recites the use of valuation data, weight factor and correlations (col 5, lines 31-47; col 7, lines 34-45 and col 11, lines 48-50). In an analogous art, Kramer et al. discloses a method for correlating an ad characterization vector and a consumer characterization vector in the evaluation of the advertisement opportunity (col 10, lines 47-67 and col 11, lines 1-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method in Feezell et al. One would have been motivated to use a correlation factor in Feezell et al.; thus, allowing a more efficient matching of the advertisement and the consumer in the bidding process.

Claim 72. Feezell et al. and Kramer et al. disclose the method of claim 71, but do not explicitly disclose wherein said determining is based at least in part on said correlation factor. Feezell et al. disclose the use of valuation data in the bidding process (col 11, lines 43 to col 12, lines 17 and Figs. 2, 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to base the determination on at least the correlation factor. One would have been

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motivated to use the correlation factor as one of the input tools in the determination since the correlation provide a good measure of the targeted audience in the context of the particular advertisement.

Claim 73. Feezell et al. and Kramer et al. disclose the method of claim 71, further comprising: receiving a notification that said bid was successful (Feezell et al.: col 12, lines 1-17).

Claim 74. Feezell et al. and Kramer et al. disclose the method of claim 71, but do not explicitly disclose wherein said correlation factor represents the degree of similarity between said advertisement and said consumer. Kramer et al. teaches the use of a degree of similarity (col 10, line 50 to col 11, line 36; col 28, lines 45-55 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a similarity degree. One would have been motivated to add the similarity feature to improve the efficiency of finding the appropriate targeted audience.

Claim 75. Feezell et al. and Kramer et al. disclose the method of claim 71, but do not explicitly disclose wherein said correlation factor is a gradation of the correlation between said advertisement characterization and said consumer. Kramer et al. teaches the use of a gradation factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a gradation. One would have been motivated

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to add the gradation feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 76. Feezell et al. and Kramer et al. disclose the method of claim 71, but do not explicitly disclose wherein said correlation factor is decimal. Kramer et al. teaches the use of a decimal factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor being decimal. One would have been motivated to add the decimal feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 78. Feezell et al. and Kramer et al. disclose the method of claim 5, but do not explicitly disclose wherein each of said plurality of correlation factors represents the degree of similarity between the corresponding advertisement and said consumer. Kramer et al. teaches the use of a degree of similarity (col 10, line 50 to col 11, line 36; col 28, lines 45-55 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a similarity degree. One would have been motivated to add the similarity feature to improve the efficiency of finding the appropriate targeted audience.

Claim 79. Feezell et al. and Kramer et al. disclose the method of claim 5, but do not explicitly disclose wherein each of said plurality of correlation factors is a gradation of the



correlation between each corresponding advertisement characterization and said consumer. Kramer et al. teaches the use of a gradation factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor representing a gradation. One would have been motivated to add the gradation feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

Claim 80. Feezell et al. and Kramer et al. disclose the method of claim 5, but do not explicitly disclose wherein each of said plurality of correlation factors is decimal. Kramer et al. teaches the use of a decimal factor (col 10, line 50 to col 11, line 36; col 28, lines 45-55; col 33, lines 14-36 and Figs 11A-13B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the correlation factor being decimal. One would have been motivated to add the decimal feature to improve the efficiency of finding the accurate targeted audience by obtaining discrete and précised values.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feezell et al. and Kramer et al. as applied to claim 5 above, and further in view of Fisher et al. (US 5,835,896).

Claim 9. Feezell et al. and Kramer et al. disclose the method described in claim 5 but do not explicitly disclose wherein the selecting of said successful bid in step is based on the highest bid of said plurality of bids. In an analogous art, Fisher et al. teaches the steps of determining a highest bid; transmitting the highest bid to the advertisers; and receiving

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additional bids from the advertisers, wherein said selecting the winning bid is performed subsequent to determining a highest bid, said transmitting the highest bid, and said receiving additional bids (col 6, lines 39-87 and col 7, lines 1-7). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to expand on the bidding method of Feezell et al. and Kramer et al. One would have been motivated to allow for additional higher bids from advertisers to maximize profitability.

### ***Response to Arguments***

Applicant's arguments filed on January 8, 2007 have been fully considered but they are not persuasive.

a. In response to applicant's argument concerning improper motivation to combine references (page 15 et seq.), the examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, the examiner asserts that it is not necessary that a reference actually suggest changes or possible improvements which the applicant made, as stated in In re Sheckler, 168 USPQ 716 (CCPA 1971). The Patent & Trademark Office can satisfy the burden under § 103 to establish a prima facie case of obviousness "by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." In re Fine, 5 USPQ2d 1596, 1598 (CA FC 1988). Therefore, the test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re

McLaughlin, 170 USPQ 209 (CCPA 1971). In the instant case, the Feezell et al. reference teach the bidding feature for time slots advertising assisted by valuation tools to help in the bidding such as correlations, weighing factors and consumer demographic data such as gender and age (see at least col 5, lines 31-47 and col 7, lines 34-45). Thus, the Feezell et al. clearly suggests the features of mathematical algorithms and consumers' attributes in the context of advertising valuation. The Kramer et al. reference teaches a model based on mathematical profiling by using features such as correlation vectors. Therefore, a skilled artisan is motivated to combine the teachings of the Feezell et al. and Kramer et al. references to arrive at an optimized and enhanced model in the evaluation process. The examiner notes that applicants' reading of the office action regarding independent claims 52, 63 and 71 is correct (pages 20-21).

b. In response to applicant's argument concerning the transmission of "the correlation factor to said advertiser system computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system" feature being absent in the Feezell et al. and Kramer et al. references (page 19 et seq.); the examiner respectfully disagrees and notes that the Feezell et al. reference teaches the transmission of the valuation data to the advertiser prior to bidding (see at least col 5, line 63 to col 6, line 13) and the Kramer et al. reference is relied upon to teach the profiling correlation factor. It would be obvious to a skilled artisan that all the pertinent information are received prior to making a bid in order to effectively determine opportunity and optimize the decision making process.

c. In response to applicant's argument concerning the specificity features (page 15 et seq.), the examiner notes that the Feezell et al. reference teaches an advertising bidding process wherein each of the time slot is evaluated based on valuation data

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gathered via various sources (see at least col 5, line 31 to col 6, line 13). Thus, Feezell et al. teach a specific advertising opportunity with specific demographics.

d. In response to applicant's argument concerning the "opportunity to transmit an advertisement to a consumer" feature being absent in the Feezell et al. reference (page 17 et seq.), the examiner respectfully disagrees and notes that an advertising time slot is an opportunity and the delivery of the advertisement is construed as transmitting the advertisement to a consumer (Isn't it the objective of an advertisement to reach a consumer?).

### **Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri V. Nguyen whose telephone number is (571) 272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

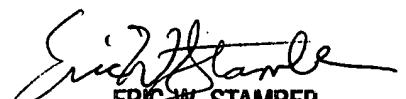
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029 and Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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